



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/698,150

10/31/2003

Easwaran Nambudiri

F-676

9842

919 7590 04/16/2010

PITNEY BOWES INC.
35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484-3000

EXAMINER

JABR, FADEY S

ART UNIT

PAPER NUMBER

3628

NOTIFICATION DATE

DELIVERY MODE

04/16/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

iptl@pb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EASWARAN NAMBUDIRI

Appeal 2009-004724
Application 10/698,150
Technology Center 3600

Decided: April 15, 2010

Before HUBERT C. LORIN, JOSEPH A. FISCHETTI, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant seeks our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 13 and 15 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF THE DECISION

We AFFIRM.

THE INVENTION

The Appellant's claimed invention is directed a mailing machine that has capabilities for detecting and responding to errors in printing postage indicia. (Spec. [0001]). Claim 13, reproduced below with the numbering in brackets added, is representative of the subject matter of appeal.

13. A mailing machine comprising:
 - transport means for transporting mail pieces along a transport path;
 - printing means for printing a postage indicia on the mail pieces transported by the transport means, the postage indicia including a barcode and human-readable numerals that represent a postage amount;
 - [1] reading means, located adjacent the transport path, for reading the barcode and the human-readable numerals;
 - [2] comparing means coupled to the reading means for comparing a postage amount represented by data read from the barcode with the postage amount represented by the human-readable numerals; and
 - [3] means for halting the transport means in response to the postage amount represented by data read from the barcode not matching with the postage amount represented by the human-readable numerals.

THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

Sansone	US 6,361,164 B1	Mar. 26, 2002
Montgomery	US 2003/0101143 A1	May 29, 2003
Briley	US 6,860,425 B2	Mar. 1, 2005

The following rejections are before us for review:

1. Claims 13 and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Sansone, Montgomery, and Briley.

THE ISSUES

At issue is whether the Appellant has shown that the Examiner erred in making the aforementioned rejections.

This issue turns on whether it would have been obvious to one of ordinary skill in the art to combine the teachings of Sansone, Montgomery, and Briley to meet the claimed limitations.

FINDINGS OF FACT

We find the following enumerated findings of fact (FF) are supported at least by a preponderance of the evidence:¹

FF1. Sansone has disclosed a system that meters the firing of a printer to audit the dots produced by a digital printer (Title).

¹ See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

FF2. Sansone verifies security in a postage meter using dot or drop printing. Security is achieved by counting the pulse firings used to produce ink drops. Sansone determines what is printed on mail pieces by reading the printer firings (that represent alphanumeric characters or other data produced) and comparing it with the value stored in non-volatile memory (Abstract).

FF3. Sansone has disclosed that the apparatus determines what is printed on the mail piece by reading firings (that represent alphanumeric characters or other data produced) and comparing it with the value stored in memory (Col. 2:39-44).

FF4. Montgomery has disclosed a system for detecting postage fraud using a unique mail piece indicum (Title). Montgomery compares the tracking ID found in the self-validating postage indicum and the standard tracking ID to reveal a discrepancy and fraud (Abstract).

FF5. Montgomery in Fig. 14 discloses at step 700 reading a self-validating unique postage indicum on a mail piece and in the next step 702 comparing the contents of the self-validating unique postage indicum to human readable information on the mail piece.

FF6. Montgomery discloses that a postal verifier operates scanning station 484 to read the postage indicum (barcode) and then manually compares this to the human readable information (postage amount). If the barcode information does not match the human readable information, this is an indication of fraud [0134].

FF7. Briley has disclosed a postage meter indica verification apparatus (Title).

FF8. Briley has disclosed that if no postage indicia is determined to be present by sensor 16 that the control device disables postage meter device 12 so that it can no longer print postage indicia 20 (Col. 2:56-59).

PRINCIPLES OF LAW

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”)

In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” *id.* at 415-16, and discussed circumstances in which a patent might be determined to be obvious. In particular, the Supreme Court emphasized that “the principles laid down in *Graham* reaffirmed the ‘functional approach’ of *Hotchkiss*, 11 How. 248.” *KSR*, 550 U.S. at 415, (citing *Graham*, 383 U.S. at 12), and reaffirmed principles based on its precedent that “[t]he combination of familiar elements according to known methods is likely to be

obvious when it does no more than yield predictable results.” *Id.* at 416. The Court also stated “[i]f a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *Id.* at 417. The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.*

The Court noted that “[t]o facilitate review, this analysis should be made explicit.” *Id.* at 418 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”) However, “the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.*

ANALYSIS

Claims 13 and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Sansone, Montgomery, and Briley. The Appellant argues that the rejection of claim 13 is improper because Sansone does not teach claim limitation [1] since it instead “counts the number of signal pulse firings” and further also fails to teach “halting the transporting of mail pieces” for errors (Br. 5). The Appellant argues that Montgomery is improperly applied in the rejection because the reference fails to disclose claim limitations [1], [2], and [3] (Br. 6-7). The Appellant also argues that Briley fails to disclose claim limitations [1] and [2] and only stops operation

if there is no postage indicium present (Br. 7). The Appellant further argues that the rejection of record uses impermissible hindsight (Br. 7).

In contrast, the Examiner has determined that the references of Sansone, Montgomery, and Briley have been properly combined to meet the claimed limitations (Ans. 5-9).

We agree with the Examiner. We note initially that claim 13 includes the above cited claim limitations [1], [2], and [3] which require:

[1] reading means, located adjacent the transport path, for reading the barcode and the human-readable numerals;

[2] comparing means coupled to the reading means for comparing a postage amount represented by data read from the barcode with the postage amount represented by the human-readable numerals; and

[3] means for halting the transport means in response to the postage amount represented by data read from the barcode not matching with the postage amount represented by the human-readable numerals. (Claim 13).

The Appellant arguments (Br. 4-8) have been largely directed to discussing the references applied in the rejection individually. It is improper to attack references individually where, as here, the obviousness rejection is based on their combined teachings. *In re Merck & Co.*, 800F.2d 1019, 1097 (Fed. Cir. 1986); *In re Keller*, 642 F.2d 413, 425-426 (CCPA 1981). Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Turning to the references, Sansone verifies security in a postage meter using dot or drop printing by counting the pulse firings used to produce ink drops (FF2). Montgomery has disclosed that a postal verifier operates a

scanning station to read a postage indicum (barcode) and then manually compares this to the human readable information (postage amount) and that if the barcode information does not match, that this is an indication of fraud. (FF6). The system of Montgomery is simpler in some aspects than that of Sansone because it deals with scanning already printed material rather than measuring the pulses used to produce ink drops. Briley has disclosed that if no postage indicia is determined to be present by sensor 16 that the control device disables postage meter device 12 so that it can no longer print postage indicia 20 (FF8) which is at least some indication that a printing postage process is stopped if an error occurs. The modification of the postal system of Sansone to use the scanning verification system of Montgomery that compares the postage barcode to the human readable postage amount and to stop the process as suggested by Briley is considered an obvious, predictable combination of known elements for a simpler process which was halted if fraud was determined and did not require measuring pulse firings of the ink. The use of a conventional vision system to read the human readable postage amount instead of being read by an operator and to halt the transport line if fraud are detected are considered modifications well within the level of one of ordinary skill in the art to automate the system and to stop mail from being sent out if fraud was detected. For these above reasons the rejection of claim 13, and claim 15 for which the same arguments have been presented, is sustained.

Appeal 2009-004724
Application 10/698,150

CONCLUSIONS OF LAW

We conclude that Appellant has not shown that the Examiner erred in rejecting claims 13 and 15 under 35 U.S.C. § 103(a) as unpatentable over Sansone, Montgomery, and Briley.

DECISION

The Examiner's rejection of claims 13 and 15 is sustained.

AFFIRMED

JRG

PITNEY BOWES INC.
35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484-3000